

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
Compliance Monitoring Section

POLICY STATEMENT

**MARRIED INDIVIDUALS LIVING APART**

This policy statement is to clarify the treatment of prospective tenants of Low Income Housing Tax Credit (LIHTC) projects who are married persons but who do not plan to reside with a spouse. In some situations, the income of the prospective resident alone may be within LIHTC guidelines, but with the inclusion of the absent spouse's earnings, the household would be ineligible to reside in a restricted unit. The determination of annual income must be made in a manner consistent with the Department of Housing and Urban Development (HUD) Section 8 guidelines in HUD Handbook 4350.3. The HUD Handbook does not specifically address marital separations, however, it does state the following:

1. Spouses are counted as family members [Figure 3-6, Page 3-56]; and
2. The head, spouse, and co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent [Part 3-10a(3), Page 3-15].
3. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member;

The HUD 4350.3 discusses the following situations, which are somewhat analogous and which involve a marital separation:

- A military spouse is counted as a household member even though absent spouse is not physically residing in the unit. It further states :if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or
- The income of a household member who is confined to a nursing home can be excluded only if that person is permanently absent.

In the absence of documentation that a spouse is permanently absent, the absent spouse should be considered a "Temporarily Absent Family Member" and that spouse's income and assets must be included as part of household income. The income of permanently absent household members would not have to be included as part of household income.

Following is a non-exhaustive list of items that can be used to document that a separation is permanent:

- Divorce filing or legal separation documents
- Documentation from an attorney or legal aid office indicating that the prospective resident/tenant has filed, is pursuing or has inquired about a divorce or legal separation.
- Copy of legal restraining order or documentation that the prospective resident/tenant has experienced domestic violence
- A statement from a person who provided counseling to the tenant in an official capacity as part of his or her occupation (i.e., attorney, therapist, marriage

counselor, clergy) indicating that the separation is permanent. The statement must be sworn or prepared on the counselor's business letterhead.

- A sworn statement from the tenant indicating the following:
  - (a) The spouses operate as separate households and the absent spouse will not reside in the unit; and
  - (b) The separation is permanent.
- Legal or official documents, such as income tax forms indicating two separate residences for the spouses.